

## Traversal of Claim Rejections

### Bates is not Prior Art

The Bates patent indicates a filing date of August 15, 1997. The pending application, on the other hand, has an earlier filing date of May 6, 1997. Because of this, Bates does not constitute prior art as defined by the patent statute. Specifically, Bates does not meet the requirements of any of the subsections of 35 USC §102, which are used to define "prior art" for purposes of determining patentability. Accordingly, Bates cannot be considered prior art, and cannot validly be used as a prior art reference in a §103 rejection.

All of the currently pending claim rejections rely on a proposed combination of references that includes Bates. Because Bates is not a valid prior art reference, the claim rejections are likewise not valid. Accordingly the claim rejections should be withdrawn for this reason alone.

### Independent Claims 1 and 11

Claim 1 recites a browser having a limited display area. The "browser has a content viewing area and is configured to display a temporary graphic element over the content viewing area during times when the browser is loading content." In addition, claim 1 has been amended to recite that the "temporary graphic element is positioned within the content viewing area to only partially obstruct content in the content viewing area." This element is supported in the specification at pages 8 and 9, and in Fig. 3 which shows a temporary graphic element 64 that only partially obstructs content in the content viewing area. Claim 11 has similar elements, expressed in terms of methodological steps.

1       Blonder does not describe these combinations of elements. Rather, Blonder  
2 describes a page viewing area used to display tour pages. In some cases, it is  
3 apparently possible to predict delays in loading the tour pages. In these situations,  
4 the Blonder displays supplementary pages, referred to as "padding," in the page  
5 viewing area, replacing any previous content. Blonder gives the following  
6 example of padding:

7       For example, padding in an education tour may consist of a  
8 discussion of general trends in the cost and financing of tuition. This  
discussion may consist of graphs and charts accompanied by  
narration.

9       Blonder, col. 3, lines 36-41.

10       Blonder's "padding" does not satisfy the claim 1 and 11 elements that the  
11 "temporary graphic element is positioned within the content viewing area to only  
12 partially obstruct content in the content viewing area." Bates is cited only as  
13 showing a limited display area, and adds nothing regarding a graphic element that  
14 is displayed when loading content. Accordingly, the combination of Blonder and  
15 Bates would not have suggested the elements defined in claims 1 and 11, and these  
16 claims should be allowed for this additional reason.

17  
18       Independent Claim 6

19       Claim 6, similarly to claims 1 and 11, recites that "the temporary graphic  
20 element occupies only a portion of the content viewing area and only partially  
21 obstructs content in the content viewing area." In addition, claim 6 recites that the  
22 "temporary graphic element indicates to a user that the browser is loading  
23 content." Blonder's "padding" does not accomplish this function. Rather, it  
24 appears the such padding is used to hide the fact that there is a delay in  
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1 downloading content—not to signal such a delay. Accordingly, claim 6 should be  
2 allowed for this additional reason.

### 3 4 Dependent Claims

5 Dependent claims 2-5, 7-10, and 12-16 are allowable because of their  
6 dependence from allowable base claims, and for additionally recited features that  
7 are not shown by the cited prior art in the context defined by the base claims.  
8 These claims are allowable whether or not their base claims are allowable.

9 For example, claims 3, 8, and 13 recite that the temporary graphic element  
10 is displayed “in a corner of the content viewing area.” In addressing this claim, the  
11 Examiner mentions that using a corner “is a well known feature of Windows  
12 windowing.” However, the prior art does not establish the obviousness of using a  
13 corner of a “content viewing area” to display a “temporary graphics element”  
14 when “loading content.” As discussed in the “Background” section of the  
15 application, the prior art has uniformly used an indicator in an area *other than the*  
16 *content viewing area* for this purpose. There is nothing in the prior art to suggest  
17 that a corner of the viewing area should be used for a graphics element such as the  
18 one claimed. Accordingly, claim 3 is allowable and its rejection should be  
19 withdrawn.

20 Claims 4, 5, 9, 10, 14, and 15 recite that the temporary graphic element is  
21 presented “within a temporary window in a windowing operating environment.”  
22 Although the Examiner has established the achievability of this feature, he has not  
23 established any *suggestion or motivation for actually implementing it*. There is no  
24 indication in the cited art that anyone has ever considered using a “window” to  
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1 display a graphics element such as this when content is loading. Accordingly,  
2 claims 4, 5, 9, 10, 14, and 15 should be allowed.

3  
4 **Conclusion**

5 It is respectfully asserted that the cited prior art does not establish the  
6 obviousness of the pending claims, and that all claims are allowable. Action to  
7 that end is urgently requested. If there are any further issues that would benefit  
8 from a personal discussion, the Examiner is encouraged to telephone the  
9 undersigned.

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11 Respectfully Submitted,

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13 Date: 9/23/99

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